

CHAPTER 862

H.B. No. 1456

AN ACT

relating to the requirements for filing an annual financial statement by a municipality.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 103.003(a), Local Government Code, is amended to read as follows:

(a) The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the municipal secretary or clerk within 180 [120] days after the last day of the municipality's fiscal year.

SECTION 2. The change in law made by this Act to Section 103.003, Local Government Code, applies only to the filing of a financial statement for a fiscal year ending on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Passed by the House on May 2, 2007: Yeas 147, Nays 0, 2 present, not voting; passed by the Senate on May 23, 2007: Yeas 31, Nays 0.

Approved June 15, 2007.

Effective June 15, 2007.

CHAPTER 863

H.B. No. 1460

AN ACT

relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1201.003, Occupations Code, is amended to read as follows:

Sec. 1201.003. DEFINITIONS. In this chapter:

(1) "Advertisement" means a commercial message that promotes the sale, exchange, or lease-purchase of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

(2) "Affiliate" means a person who is under common control.

(3) "Alteration" means the replacement, addition, modification, or removal of equipment in a new manufactured home after sale by a manufacturer to a retailer but before sale and installation by a retailer to a purchaser in a manner that may affect the home's construction, fire safety, occupancy, or plumbing, heating, or electrical system. The term includes the modification of a manufactured home in a manner that may affect the home's compliance with the appropriate standards but does not include:

(A) the repair or replacement of a component or appliance that requires plug-in to an electrical receptacle, if the replaced item is of the same configuration and rating as the replacement; or

(B) the addition of an appliance that requires plug-in to an electrical receptacle and that was not provided with the manufactured home by the manufacturer, if the rating of

the appliance does not exceed the rating of the receptacle to which the appliance is connected.

(4) [(2-a)] “Attached” in reference to a manufactured home means that the home has been:

(A) installed in compliance with the rules of the department; and

(B) connected to a utility, including a utility providing water, electric, natural gas, propane or butane gas, or wastewater service.

(5) [(3)] “Board” means the Manufactured Housing Board within the Texas Department of Housing and Community Affairs.

(6) [(4)] “Broker” means a person engaged by one or more other persons to negotiate or offer to negotiate a bargain or contract for the sale, exchange, or lease-purchase of a manufactured home for which a certificate or other document of title has been issued and is outstanding. The term does not include a person who maintains a location for the display of manufactured homes.

(7) [(5)] “Business use” means the use of a manufactured home for a purpose other than as a *permanent or temporary* dwelling.

(8) [(6)] “Consumer” means a person, other than a person licensed under this chapter, who seeks to acquire or acquires by purchase, exchange, or lease-purchase a manufactured home.

(9) “Control” means, with respect to another person, the possession of the power, directly or indirectly, to vote an interest of 25 percent or more.

(10) [(7)] “Department” means the Texas Department of Housing and Community Affairs operating through its manufactured housing division.

(11) [(8)] “Director” means the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs.

(12) [(9)] “HUD-code manufactured home”:

(A) means a structure:

(i) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home; and

(C) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

(13) [(10)] “Installation” means the temporary or permanent construction of the foundation system and the placement of a manufactured home or manufactured home component on the foundation. The term includes supporting, blocking, leveling, securing, anchoring, and properly connecting multiple or expandable sections or components and making minor adjustments.

(14) [(11)] “Installer” means a person, including a retailer or manufacturer, who contracts to perform or performs an installation function on manufactured housing.

(15) [(12)] “Label” means a device or insignia that is:

(A) issued by the director to indicate compliance with the standards, rules, and regulations established by the United States Department of Housing and Urban Development; and

(B) permanently attached to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer.

(16) [(13)] “Lease-purchase” means entering into a lease contract *for a manufactured home, in which the lessor retains title, containing a provision or, in another agreement,* conferring on the lessee an option to purchase a manufactured home.

(17) [(14)] “License holder” or “licensee” means a person who holds a department-issued license as a manufacturer, retailer, broker, rebuilder, salesperson, or installer.

(18) [(15)] “Manufactured home” or “manufactured housing” means a HUD-code manufactured home or a mobile home.

(19) [(16)] “Manufacturer” means a person who constructs or assembles manufactured housing for sale, exchange, or lease-purchase in this state.

(20) [(17)] “Mobile home”:

(A) means a structure:

(i) constructed before June 15, 1976;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

(21) “*New manufactured home*” means a manufactured home that is not a used manufactured home, regardless of its age.

(22) [(18)] “Person” means an individual or a partnership, company, corporation, association, or other group, however organized.

(23) “*Related person*” means a person who directly or indirectly participates in management or policy decisions.

(24) [(19)] “Retailer” means a person who:

(A) is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale, exchange, or lease-purchase to consumers, including a person who maintains a location for the display of manufactured homes; and

(B) sells, exchanges, or lease-purchases at least two manufactured homes to consumers in a 12-month period.

(25) “*Rules*” means the rules of the department.

(26) [(20)] “Salesperson” means a person who, as an employee or agent of a retailer or broker, sells or lease-purchases or offers to sell or lease-purchase manufactured housing to a consumer ~~[for any form of compensation]~~.

(27) [(21)] “Salvaged manufactured home” means a manufactured home determined to be salvaged under Section 1201.461.

(28) [(22)] “Seal” means a device or insignia issued by the director that, for title purposes, is to be attached to a used manufactured home as required by the director.

(29) [(23)] “Standards code” means the Texas Manufactured Housing Standards Code.

(30) [(23-a)] “Statement of ownership and location” means a statement issued by the department and setting forth:

(A) the ownership and location of a manufactured home ~~[that has been sold at a retail sale or installed]~~ in this state as provided by Section 1201.205; and

(B) other information required by this chapter.

(31) [(24)] “Trust fund” means the manufactured homeowners’ recovery trust fund.

(32) “*Used manufactured home*” means a manufactured home which has been occupied for any use or for which a statement of ownership and location has been issued. The term does not include:

(A) a manufactured home that was used as a sales model at a licensed retail location;
or

(B) a manufactured home that:

- (i) was sold as a new manufactured home and installed but never occupied;
- (ii) had a statement of ownership and location; and
- (iii) was taken back from the consumer or transferee because of a first payment default or agreement to rescind or unwind the transaction.

SECTION 2. Section 1201.008, Occupations Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) Notwithstanding any zoning or other law, in the event that a manufactured home occupies a lot in a municipality, the owner of the manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home.

(f) An owner's ability to replace the home as a result of a fire or natural disaster cannot be restricted. Other than in the case of a fire or natural disaster, a general-rule or home-rule municipality by an ordinance or charter may limit the ability of the owner to replace his home to a single replacement.

SECTION 3. Section 1201.053(a), Occupations Code, is amended to read as follows:

(a) The board [~~director~~] shall adopt rules[, ~~issue orders,~~] and otherwise act as necessary to:

(1) comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), including adopting and enforcing rules reasonably required to implement the notification and correction procedures provided by 42 U.S.C. Section 5414; and

(2) provide for the effective enforcement of all HUD-code manufactured housing construction and safety standards in order to have the state plan authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) approved by the secretary of housing and urban development.

SECTION 4. Section 1201.054, Occupations Code, is amended to read as follows:

Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Rules must be adopted in accordance with Chapter 2001, Government Code, and with this section.

(b) *If requested, the board shall, after at least 10 days' notice, hold a hearing on any rule that it proposes to adopt, other than a rule that is to be adopted under emergency rulemaking, in which case only the requirements of Chapter 2001, Government Code, shall apply* [~~A proposed rule must be published in the Texas Register before the 30th day preceding the date of a public hearing set to consider the testimony of interested persons. Notice of the time and place of the public hearing must be published in the Texas Register before the 30th day preceding the date of the hearing.~~].

(c) [~~A rule as finally adopted must be published in the Texas Register and state the rule's effective date.~~]

[~~(d)~~] A rule takes effect on the 30th day after the date of publication of notice that the rule has been adopted, except that a rule relating to installation standards may not take effect earlier [~~later~~] than the 60th day after the date of publication of notice *unless the board has determined that an earlier effective date is required to meet an emergency and the standard was adopted under the emergency rulemaking provisions of Chapter 2001, Government Code.*

SECTION 5. Section 1201.055, Occupations Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) *The department may permit the use of any device or procedure that has been reviewed and approved by a licensed engineer provided that such use or procedure complies with any instructions, conditions, or other requirements specified by that engineer.*

SECTION 6. Section 1201.058, Occupations Code, is amended to read as follows:

Sec. 1201.058. AMOUNT OF FEES. (a) The board shall establish *reasonable fees for all matters under this chapter providing for fees.* *If the department's rules provide an option to*

file a document electronically, the department may charge a discounted fee for the electronic filing.

(b) Ten dollars of the fee for each purchase, exchange, or lease-purchase of a manufactured home shall be deposited to the credit of the trust fund and used for the protection programs described by Subchapter I.

(c) All fees established by this chapter or the rules are deemed to be earned and not subject to refund after receipt by the department.

(d) Notwithstanding Subsection (c), the director may, in limited and appropriate circumstances and in accordance with rules adopted by the board, approve the refund of fees [the fees imposed under Sections 1201.055–1201.057 in amounts that are reasonable and necessary to cover the cost of administering this chapter].

SECTION 7. Section 1201.101, Occupations Code, is amended by amending Subsections (d), (f), and (g) and adding Subsection (f–1) to read as follows:

(d) A person may not act as an installer [perform an installation function on manufactured housing] in this state unless the person holds an installer's license.

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer or broker who sponsored the salesperson's application as required by Section 1201.103(d).

(f–1) A retailer may be licensed to operate at a principal location and one or more branch locations under a single license; provided, however, that a separate application must be made for each branch, and each branch must be separately bonded.

(g) A person may not make an announcement concerning the sale, exchange, or lease-purchase of, or offer to sell, exchange, or lease-purchase, a manufactured home to a consumer in this state through an advertisement unless the person holds a manufacturer's, retailer's, or broker's license. This subsection does not apply to:

(1) a person exempt from licensing [to whom a statement of ownership and location has been issued showing the person to be the owner of the home if the person does not offer to sell, exchange, or lease-purchase two or more manufactured homes in a 12-month period]; or

(2) an advertisement concerning real property on [to] which there is a manufactured home that has been converted to real property in accordance with Section 1201.2055 [permanently attached].

SECTION 8. Sections 1201.102(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) A licensed installer may employ unlicensed persons to assist in performing installation functions provided that the licensed installer maintains a list of the persons so employed. The director may issue an order to prohibit a person who is not licensed as an installer from performing installation functions under the oversight of a licensed installer [An employee who acts as an agent of a license holder is covered by the holder's license and is not required to hold an individual license].

(b) A licensee may engage another person who is not licensed under this chapter but possesses another license issued by the State of Texas to provide goods and services subject to that other license. Without limiting the generality of the foregoing, this includes engaging others to install, connect, or otherwise work on air conditioning, plumbing, and electrical systems [Except as provided by Section 1201.510, an independent contractor or business entity may not operate under the license of another business entity except as an agent or subcontractor of a licensed installer who is responsible for an installation function performed by the agent or subcontractor].

(c) An individual who [In the case of a sole proprietorship, partnership, or corporation that] holds a retailer's license or broker's license or who is a related person of such a licensee[, an owner, partner, or officer of that entity] is not required to apply for a salesperson's license [if that owner, partner, or officer is properly listed in the retailer's or broker's license application].

SECTION 9. Section 1201.103, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) An applicant for a license as a manufacturer, retailer, broker, rebuilder, or installer must file with the director a license application containing:

(1) the legal name, address, and telephone number of the applicant *and each person who will be a related person at the time the requested license is issued*;

(2) *all [the] trade names, and the names of all other business organizations, under [name by] which the applicant does business subject to this chapter [and, if incorporated], the name of each such business organization registered with the secretary of state, and the address of such [the] business organization; [and]*

(3) the dates on which the applicant became the owner and operator of the business; *and*

(4) *the location to which the license will apply.*

(a-1) *All required records of a licensee under Subsection (a) are to be maintained at the licensee's principal office or such other location within this state as the licensee may designate.*

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides any information the director considers necessary and that is sponsored by a *currently licensed*[~~bonded~~] retailer or broker; and

(2) pay the required fee.

SECTION 10. Sections 1201.104 and 1201.105, Occupations Code, are amended to read as follows:

Sec. 1201.104. **QUALIFICATIONS FOR LICENSE.** (a) Except as provided by Subsection (e), as a *requirement* [~~prerequisite~~] for a *manufacturer's, retailer's, broker's, installer's, salvage rebuilder's, or salesperson's* license, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, *not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete 20 hours of instruction in the law, including instruction in consumer protection regulations. If the applicant is not an individual, the applicant must have at least one related person who meets this requirement* [~~The director may not issue a license to that person until the course of instruction is completed~~].

(b) *Except in the case of an applicant for a salesperson's license, successful completion of the course of instruction is a prerequisite to obtaining the license.*

(c) *An applicant for a salesperson's license may apply for a license without having completed the course of instruction provided that the person successfully completes the next scheduled course offered after the date of the person's licensure. If the person fails to complete such course successfully and in a timely manner, the person's license is automatically suspended until the person successfully completes the course.*

(d) The course of instruction must be offered at least quarterly.

(e) *The board shall adopt rules relating to course content and approval. Classes must be live. Online or other electronic classes are not permitted.*

(f) *An applicant for an initial installer's license shall receive a license on a probationary basis. The person's probationary status shall remain in effect until such time as a sufficient number of installations completed by the person have been inspected by the department and found not to have any identified material violations of the department's rules. The board, with the advice of the advisory committee to be established under Section 1201.251, shall adopt rules to establish what constitutes a sufficient number of installations under this subsection.*

(g) [~~(e) Instead of the course of instruction:~~

[~~(1) a manufacturer may request that an authorized representative of the department present a one-day, in-plant training program; or~~

[~~(2) the director may approve a training program for a license applicant that is conducted by a nonprofit educational institution or foundation.~~

~~[(d) A manufacturer shall reimburse the department for the actual cost of a program presented under Subsection (e)(1).~~

~~[(e)] Subsection (a) does not apply to a license holder [or registration holder] who applies:~~

~~(1) for a license for an additional business location; or~~

~~(2) to renew or reinstate a license[; or~~

~~[(3) for a salesperson's license].~~

~~(h) [(f)] An examination must [may not] be a requirement of successful completion of any initial required course of instruction under this section [made a prerequisite of licensing].~~

Sec. 1201.105. SECURITY REQUIRED. (a) The department may not issue or renew a license unless a bond or other security in a form prescribed by the director is filed with the department as provided by this subchapter. The bond or other security is payable to the trust fund.

(b) If a bond is filed, the bond must be issued by a company authorized to do business in this state and must conform to applicable provisions of the Insurance Code. If other security is filed, that security must be maintained in or by a *federally insured depository* ~~[banking]~~ institution located in this state.

(c) If the department experiences significant problems in obtaining timely reimbursements from a surety or the surety has experienced a deterioration in its financial condition, the board may direct the director to stop accepting bonds issued by the surety.

SECTION 11. Section 1201.106, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer's principal location ~~[retailer]~~;
- (3) \$50,000 for each retailer's branch location;
- (4) \$50,000 ~~[\$30,000]~~ for a rebuilder;
- (5) ~~[(4)]~~ \$50,000 for a broker; or
- (6) \$25,000 ~~[(5) \$10,000]~~ for an installer.

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the trust fund to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 12. Section 1201.108, Occupations Code, is amended to read as follows:

Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION. (a) A new bond is not required for a change in:

- (1) ownership of a licensee or a business entity under which ~~[corporation that is]~~ a license holder conducts business; or
- (2) location.

(b) A licensee shall notify the department of a change described by Subsection (a) not later than the 10th day before the date the change occurs.

(c) After a change described by Subsection (a), the licensee shall provide to the department a proper endorsement to the original bond showing that the bond continues to apply to the license without interruption ~~[The director may require a proper endorsement of the original bond].~~

SECTION 13. Sections 1201.113(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) The board shall approve ~~[recognize, prepare,]~~ or administer ~~[certification and]~~ continuing education programs for licensees ~~[salespersons regulated]~~ under this chapter. A continu-

ing education program must be at least eight hours long and must include the current rules of the department and such other matters as the board may deem relevant.

(b) Attendance at an approved or administered continuing education course described by Subsection (a) is a prerequisite to renewal of a license ~~[A person who holds a salesperson's license must participate in certification and continuing education programs as provided by Subsection (e)].~~

(c) No test shall be given in relation to any continuing education program ~~[To prepare or administer a certification or continuing education program under this section, the board may contract with:~~

~~[(1) a private, nonprofit organization that qualifies for an exemption from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code; or~~

~~[(2) an educational institution].~~

SECTION 14. Section 1201.114, Occupations Code, is amended to read as follows:

Sec. 1201.114. LICENSE EXPIRATION; *PROBATIONARY LICENSE*. (a) *Any license under this chapter other than a probationary [A manufacturer's, retailer's, broker's, or installer's] license is valid for [one year. A salesperson's license is valid for] two years. A license may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.*

(b) *If the director determines that a licensed salesperson or installer should receive a probationary license, the director may issue a probationary license on such terms and for such period as are deemed reasonable. The issuance of a license on a probationary basis, any one or more of the specific terms of the probation, or the period of probation may be appealed before the 31st day after issuance of the probationary license by written notice to the director. If appeal is made, the director shall set the matter for a hearing before the State Office of Administrative Hearings, and all administrative proceedings relating to the issuance of the probationary license shall be deemed to be a contested case under Chapter 2001, Government Code. If no appeal is made, the probationary license shall be issued and shall remain in effect in accordance with the terms specified [The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable].*

SECTION 15. Subchapter C, Chapter 1201, Occupations Code, is amended by adding Section 1201.118 to read as follows:

Sec. 1201.118. *RULES RELATING TO CERTAIN PERSONS. The board shall adopt rules providing for additional review and scrutiny of any application for an initial or renewal license that involves a person who has previously:*

(1) *been found in a final order to have participated in one or more violations of this chapter that served as grounds for the suspension or revocation of a license;*

(2) *been found to have engaged in activity subject to this chapter without possessing the required license;*

(3) *caused the trust fund to incur unreimbursed payments or claims; or*

(4) *failed to abide by the terms of a final order, including the payment of any assessed administrative penalties.*

SECTION 16. Section 1201.1505, Occupations Code, is amended to read as follows:

Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED HOMES. A retailer may require a ~~[an earnest money]~~ deposit on a specially ordered manufactured home ~~[only if:~~

~~[(1) an earnest money contract has been signed by all parties;~~

~~[(2) if applicable, the original binding loan commitment letter issued by the lender is delivered to the consumer; and~~

~~[(3) the consumer has not rescinded the contract under Section 1201.1521].~~

SECTION 17. The heading to Section 1201.151, Occupations Code, is amended to read as follows:

Sec. 1201.151. *REFUNDS* ~~[REFUND OF DEPOSIT]~~.

SECTION 18. Section 1201.151, Occupations Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as otherwise provided by this section, a retailer~~[, salesperson, or agent of the retailer]~~ must refund a consumer's deposit not later than the 15th day after the date that a written request for the refund is received from the consumer.

(e) A deposit becomes a down payment upon execution of a binding written agreement. Thereafter, if the consumer exercises a right of rescission, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, without offset or deduction.

SECTION 19. Section 1201.1521, Occupations Code, is amended to read as follows:

Sec. 1201.1521. *RESCISSION OF CONTRACT FOR SALE, EXCHANGE, OR LEASE—PURCHASE OF HOME.* (a) A person who acquires a manufactured home *from or through* a licensee by purchase, exchange, or lease-purchase may, not later than the third day after the date the applicable contract is signed, rescind the contract without penalty or charge.

(b) Subject to rules adopted by the board, a consumer may waive a right of rescission in the event of a bona fide emergency. Such rules shall, to the extent practical, be modeled on the federal rules for the waiver of a right of rescission under 12 C.F.R. Part 226.

SECTION 20. Section 1201.158, Occupations Code, is amended to read as follows:

Sec. 1201.158. *SALESPERSON.* A licensed salesperson may work *only for the salesperson's sponsoring* ~~[for more than one]~~ retailer or broker ~~[or at more than one sales location]~~.

SECTION 21. Section 1201.159, Occupations Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as provided by Section 1201.456, a [A] broker shall ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer.

(c) A broker shall provide any person who engages the broker's services with a written disclosure of which interests in the transaction, if any, the broker represents.

(d) If the seller is required to possess a license by this chapter, a broker may assist in the sale of a manufactured home only if that seller has a current license.

SECTION 22. Section 1201.161, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) Notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by[;

~~[(1) the department; or~~

~~[(2)]~~ the Texas Department of Transportation under Subchapter E, Chapter 623, Transportation Code.

(d) Unless the information provided for in Subsection (c) is provided electronically, the [The] department shall pay the reasonable cost of providing the copies or the list and information under Subsection (c).

(e) The copies and lists to be provided under this section may be provided electronically.

SECTION 23. Section 1201.162, Occupations Code, is amended to read as follows:

Sec. 1201.162. *DISCLOSURE BY RETAILER AND LENDER.* (a) Before the completion of a credit application or more than one day before entering into any agreement for a sale, exchange, or the exercise of the lease purchase option that will not be financed, the retailer ~~[or agent]~~ must provide to the consumer a written disclosure in the form promulgated by the board. The disclosure shall be in at least 12-point type and must address matters of concern relating to costs and obligations that may be associated with home ownership,

matters to be considered in making financing decisions, related costs that may arise when purchasing a manufactured home, and such other matters as the board may deem appropriate to promote informed purchase, financing, and related decisions regarding the acquisition and ownership of a manufactured home. The form shall also conspicuously disclose the consumer's right of rescission.

(b) ~~[the following statement that is printed in at least 12-point type and not attached to or combined with any other written material:~~

~~["When buying a manufactured home, there are a number of important considerations, including price, quality of construction, features, floor plan, and financing alternatives.~~

~~["The United States Department of Housing and Urban Development (HUD) helps protect consumers through regulation and enforcement of HUD design and construction standards for manufactured homes. Manufactured homes that meet HUD standards are known as 'HUD-code manufactured homes.' The Texas Department of Housing and Community Affairs regulates Texas manufacturers, retailers, brokers, salespersons, installers, and re-builders of manufactured homes.~~

~~["If you plan to place a manufactured home on land that you own or will buy, you should consider items such as:~~

~~["ZONING AND RESTRICTIVE COVENANTS. Municipalities or subdivisions may restrict placement of manufactured homes on certain lots, may prohibit the placement of homes within a certain distance from property lines, may require that homes be a certain size, and may impose certain construction requirements. You may need to obtain building permits and homeowner association approval before you place a manufactured home on a certain lot. Contact the local municipality, county, and subdivision manager to find out if you can place the manufactured home of your choice on a certain lot.~~

~~["WATER. Be sure that your lot has access to water. If you must drill a well, contact several drillers for bids. If water is available through a municipality, utility district, water district, or cooperative, you should inquire about the rates you will have to pay and the costs necessary to join the water system.~~

~~["SEWER. If your lot is not serviced by a municipal sewer system or utility district, you will have to install an on-site sewer facility (commonly known as a septic system). There are a number of concerns or restrictions that will determine if your lot is adequate to support an on-site sewer facility. Check with the local county or a licensed private installer to determine the requirements that apply to your lot and the cost to install such a system.~~

~~["HOMEOWNER ASSOCIATION FEES. Many subdivisions have mandatory assessments and fees that lot owners must pay. Check with the manager of the subdivision in which your lot is located to determine if any fees apply to your lot.~~

~~["TAXES. Your home will be appraised and subject to ad valorem taxes as are other single-family residential structures. These taxes must be escrowed with your monthly payment, except that your lender is not obligated to impose an escrow requirement in a real property transaction involving a manufactured home if the lender is a federally insured financial institution and does not otherwise require the escrow of taxes, insurance premiums, fees, or other charges in connection with loans secured by residential real property. On closing, you will be notified of all provisions pertaining to federal truth in lending disclosures.~~

~~["INSURANCE. Your lender may require you to obtain insurance that meets lender requirements and protects your investment. You should request quotes from the agent of your choice to obtain the insurance.~~

~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a manufactured home may be financed by a real estate mortgage or a chattel mortgage. A real estate mortgage may have a lower interest rate than a chattel mortgage.~~

~~["RIGHT OF RESCISSION. If you acquire a manufactured home, by purchase, exchange, or lease-purchase, you may, not later than the third day after the date the applicable contract is signed, rescind the contract without penalty or charge."~~

[(d)] A federally insured financial institution or lender approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority that fully complies with federal Truth in Lending

disclosures concerning the terms of a manufactured housing transaction is exempt from the disclosure provisions of this section.

(c) *The right of rescission described in Subsection (a) shall apply only to the sale transaction between the retailer and the consumer.*

~~[(e)]~~ Failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. *The consumer shall continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). The consumer's execution of a signed receipt of a copy of the disclosure required by Subsection (a) shall constitute conclusive proof of the delivery of the disclosure. If the consumer grants a person other than the retailer a lien on the manufactured home, the right of rescission shall immediately cease on the filing of the lien with the department.*

SECTION 24. Section 1201.164, Occupations Code, is amended to read as follows:

Sec. 1201.164. **ADVANCE COPY OF ~~[INSTALLMENT]~~ CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER.** (a) *In a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533) and its implementing regulations ~~[chattel mortgage transaction involving an installment contract]~~, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed the contract, with all required information included, signed by the retailer. The delivery of the ~~[installment]~~ contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. Except as provided for in Subsection (b), the ~~[The]~~ consumer may accept the offer not earlier than 24 hours after the delivery of the contract. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.*

(b) The consumer may modify or waive the right to rescind and the deadlines for disclosures before the execution of the contract that are provided by Subsection (a) if the consumer determines that the purchase of the manufactured home is needed to meet a bona fide personal emergency. If the consumer has a bona fide personal emergency that necessitates the immediate purchase of the manufactured home, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods and any right of rescission, and bears the signature of all of the consumers entitled to the disclosures and right of rescission. In such event the retailer shall immediately give the consumer all of the disclosures required by this code and sell the manufactured home without the required waiting periods or the right of rescission. Printed forms for this purpose are prohibited except in a county that has been declared by the governor to be a major disaster area. If the governor declares a county to be a major disaster area, the retailer may use printed forms promulgated by the department. This exception shall expire one year after the county has been declared a major disaster area.

SECTION 25. Sections 1201.203, 1201.204, and 1201.205, Occupations Code, are amended to read as follows:

Sec. 1201.203. **FORMS; RULES.** (a) The board ~~[director]~~ shall ~~[prescribe forms and]~~ adopt rules *and forms* relating to:

- (1) the manufacturer's certificate;
- (2) the statement of ownership and location;
- (3) the application for a statement of ownership and location; and
- (4) the issuance of *an initial or revised [a] statement of ownership [and location at the first retail sale and for a subsequent sale or transfer of a manufactured home].*

(b) The board ~~[director]~~ shall adopt rules for the documenting of the ownership and location of a manufactured home that has been previously owned in this state or another state. The rules must protect a lienholder recorded *with the department [on a statement of ownership and location, a certificate, or other document of title].*

Sec. 1201.204. **MANUFACTURER'S CERTIFICATE.** (a) A manufacturer's certificate must show:

(1) on a form prescribed by the director ~~[or on another document]~~, the original transfer of a manufactured home from the manufacturer to the retailer; and

(2) on a form prescribed by the director, each subsequent transfer of a manufactured home between retailers and from retailer to owner, if the transfer from retailer to owner involves a completed application for the issuance of a statement of ownership and location.

(b) At the first retail sale of a manufactured home, a manufacturer's certificate automatically converts to a document that does not evidence any ownership interest in the manufactured home described in the document. A security interest in inventory evidenced by a *properly recorded inventory finance lien* ~~[the manufacturer's certificate]~~ automatically converts to a security interest in proceeds and cash proceeds.

(c) After the first retail sale of a manufactured home, the retailer *must* ~~[may]~~ submit the original manufacturer's certificate for that home to the department. *If an application for an initial statement of ownership is made without the required manufacturer's certificate and the retailer does not provide it as required, the department shall, on or before the issuance of the requested statement of ownership and location, send written notice to each party currently reflected on the department's records as having a recorded lien on the inventory of that retailer. Failure to include the original manufacturer's certificate with such an application does not impair a consumer's ability to obtain, on submittal of an otherwise complete application, a statement of ownership and location free and clear of any liens other than liens created by or consented to by the consumer.*

Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION FORM. A statement of ownership and location must be evidenced by a board-approved form issued by the department setting forth ~~[provide]~~:

(1) the name ~~[names]~~ and address ~~[addresses]~~ of the ~~[purchaser and]~~ seller and the name and, if it is different from the location of the home, the mailing address of the new owner;

(2) the manufacturer's name and address and any model designation, if available;

(3) in accordance with the board's ~~[director's]~~ rules:

(A) the outside dimensions of the manufactured home when installed for occupancy, as measured to the nearest one-half foot at the base of the home, exclusive of the tongue or other towing device; and

(B) the approximate square footage of the home when installed for occupancy;

(4) the identification number for each section or module of the home;

(5) the *physical address where* ~~[county of this state in which]~~ the home is installed for occupancy, including the name of the county, and, if it is different from the physical address, the mailing address of the owner of the home;

(6) in chronological order of recordation, the date of each lien, *other than a tax lien*, on the home and the name and address of each lienholder, or, if a lien is not recorded, a statement of that fact;

(7) a statement regarding tax liens as follows:

"On January 1st of each year, a new tax lien comes into existence on a manufactured home in favor of each taxing unit having jurisdiction where the home is actually located on January 1st. In order to be enforced, any such lien must be recorded with the Texas Department of Housing and Community Affairs—Manufactured Housing Division as provided by law. You may check that division's records through its website or contact that division to learn any recorded tax liens. To find out about the amount of any unpaid tax liabilities, contact the tax office for the county where the home was actually located on January 1st of that year." ~~[the signature of the owner in ink, given on receipt of the document];~~

(8) a statement that if two or more eligible persons, as determined by Section 1201.213, file with the application for the issuance of a statement of ownership and location an agreement signed by all the persons providing that the home is to be held jointly with a right of survivorship, the director shall issue the statement of ownership and location in all the names;

- (9) the location of the home;
- (10) a statement of whether the owner has elected to treat the home as real property or personal property;
- (11) statements of whether the home is a salvaged manufactured home and whether the home is reserved for business use only; and
- (12) any other information the board ~~[director]~~ requires.

SECTION 26. Section 1201.2055, Occupations Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b) A statement of election under Subsection (a) must be *executed before a notary on the form of application for statement and ownership and location promulgated by the board [made by affidavit]*.

(i) *Notwithstanding the 60-day deadline specified in Subsection (d), if the closing of a mortgage loan to be secured by real property including the manufactured home is held, the loan is funded, and a deed of trust covering the real property and all improvements on the property is recorded and the licensed title company or attorney who closed the loan failed to complete the conversion to real property in accordance with this chapter, the holder or servicer of the loan may apply for a statement of ownership and location electing real property status, obtain a certified copy of the statement of ownership and location, and make the necessary filings and notifications to complete such conversion at any time provided that:*

(1) *the record owner of the home, as reflected on the department's records, has been given at least 60 days' prior written notice at:*

(A) *the location of the home and, if it is different, the mailing address of the owner as specified in the department records; and*

(B) *any other location the holder or servicer knows or believes, after a reasonable inquiry, to be an address where the owner may have been or is receiving mail or is an address of record;*

(2) *such notification shall be given by certified mail; and*

(3) *the department by rule shall require evidence that the holder or servicer requesting such after-the-fact completion of a real property election has complied with the requirements of this subsection.*

SECTION 27. Sections 1201.206, 1201.207, 1201.2075, 1201.2076, and 1201.208, Occupations Code, are amended to read as follows:

Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) ~~[(b)]~~ At the first retail sale of a manufactured home, the retailer shall provide for the installation of the home and ensure that the application for the issuance of a statement of ownership and location is properly completed. The consumer shall return the completed application to the retailer. *In accordance with Section 1201.204, the retailer shall surrender to the department the original manufacturer's statement of origin at the same time that the retailer applies for the first statement of ownership and location.*

(b) ~~[(e)]~~ Not later than the 60th ~~[30th]~~ day after the date of the retail sale, the retailer shall provide to the department the completed application for the issuance of a statement of ownership and location. *If for any reason the retailer does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.*

(c) ~~[(d)]~~ Not later than the 60th ~~[30th]~~ day after the date of each subsequent sale or transfer of a home that is considered to be personal property, the seller or transferor shall provide to the department a completed application for the issuance of a new statement of ownership and location. *If for any reason the seller or transferor does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.*

(d) *If the seller accepts a trade-in manufactured home as part of the consideration for the sale of another manufactured home, the seller shall file a completed application for the issuance of a new statement of ownership and location reflecting the change of ownership of the trade-in manufactured home from the prospective buyer to the seller. The seller shall file*

the application for the issuance of a new statement of ownership and location for the traded in manufactured home at the same time that the seller files the application for the issuance of a new statement of ownership and location for the manufactured home that was sold by the seller. If the seller is a retailer, the seller shall indicate on the application for the issuance of the new statement of ownership and location whether the trade-in manufactured home has been added to the inventory of the retailer.

(e) Ownership of a manufactured home does not pass or vest at a sale or transfer of the home until a completed application for the issuance of a statement of ownership and location is filed with the department.

(f) If the owner of a manufactured home relocates the home, the owner shall apply for the issuance of a new statement of ownership and location not later than the 60th [30th] day after the date the home is relocated. The department shall require that the owner submit evidence that the home was relocated in accordance with the requirements of the Texas Department of Transportation.

(g) *When the seller files an application for the issuance of a statement of ownership and location for a used manufactured home that is not in a retailer's inventory, the seller shall also file with the department a statement from the tax assessor-collector that there are no personal property taxes due on the manufactured home that may have accrued on each January 1 that falls within the 18 months before the date of the sale.*

(h) *If a person selling a manufactured home to a consumer for residential use fails to file with the department the application for the issuance of a statement of ownership and location and the appropriate filing fee before the 61st day after the date of the sale, the department may assess a fee of at least \$100 against the seller. The department shall have the authority to enforce the collection of any fee from the seller through judicial means. The department shall place on the application for the issuance of a statement of ownership and location the following legend in a clear and conspicuous manner:*

"THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT OF OWNERSHIP AND LOCATION LATER THAN SIXTY (60) DAYS AFTER THE DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

(i) When a properly completed notice of installation on the department's promulgated form is filed that relates to a secondary move, the notice must be accompanied by either:

(1) one true and correct copy of the original notice of installation; or

(2) a certification that a true and correct copy of the notice of installation has been provided to the chief appraiser for the county in which the home was installed; the delivery of the copy of the notice to the chief appraiser may be accomplished either by certified mail or by electronic mailing of the electronically reproduced document in a commonly readable format.

(i-1) *If the method specified in Subsection (i)(2) is used to report the installation, the department may adopt a discounted fee for the filing of the notice of installation.*

(j) *In addition to providing each chief appraiser the monthly report required by Section 1201.220, the department shall, on request, provide the tax collector one copy of any requested reported notice of installation.*

(k) *Notwithstanding any provision in this chapter to the contrary, if a person has acquired a manufactured home and the owner of record or any intervening owners of liens or equitable interests cannot be located to assist in documenting the chain of title, the department may issue a statement of ownership and location to the person claiming ownership if the person can provide a supporting affidavit describing the chain of title and such reasonable supporting proof as the director may require.*

Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) *Except as provided for in Subsection (a-1), the [The] department shall process any completed application for the issuance of a statement of ownership and location not later than the 15th working day after the date the application is received by the department. If the department*

rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

(a-1) For the period immediately following June 30 of each year, the department shall, except for applications relating to new manufactured homes and applications accompanied by a tax certificate, cease issuing statements of ownership and location until all tax liens filed with the department before June 30 have been processed and either recorded or rejected. During this period the department will post on its website a notice as to when it is anticipated that processing statements of ownership and location will resume and when it is anticipated that such processing will be within the 15-working-day time frame provided by Subsection (a).

(b) If the department issues a statement of ownership and location for a manufactured home, the department shall *maintain a record of the issuance in its electronic records* ~~place in its files the original statement of ownership and location~~ and shall mail a ~~certified~~ copy to the owner and each ~~of the home and to any~~ lienholder.

(c) Except with respect to any change in use, but subject to Section 1201.2075, if the department has issued a statement of ownership and location for a manufactured home, the department may issue a subsequent statement of ownership and location for the home only if all parties reflected in the department's records as having an interest in the manufactured home give their written consent or release their interest, either in writing or by operation of law, *or the department has followed the procedures provided by Section 1201.206(k) to document ownership and lien status. Once the department issues a statement of ownership and location, the department shall not alter the record of the ownership or lien status of a manufactured home for any activity occurring before the issuance of the statement of ownership and location without either the written permission of the owner of record for the manufactured home, their legal representative, or a court order.*

(d) Notwithstanding any other provision of this chapter, if the consumer purchases a new manufactured home from a licensed retailer in the ordinary course of business, whether or not a statement of ownership and location has been issued for the manufactured home, the consumer is a bona fide purchaser for value without notice and is entitled to ownership of the manufactured home free and clear of all liens and to a statement of ownership and location reflecting the same on payment by the consumer of the purchase price to the retailer. If there is an existing lien on the new manufactured home perfected with the department, the owner of the lien is entitled to recover the value of the lien from the retailer.

(e) Notwithstanding any other provision of this chapter, if the consumer purchases a used manufactured home from a retailer in the ordinary course of business, the consumer takes the manufactured home free and clear of any liens created by the selling retailer even if they are recorded.

Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL PROPERTY. (a) Except as provided by Subsection (b) *or Section 1201.206(k)*, the department may not issue a statement of ownership and location for a manufactured home that is being converted from personal property to real property until:

- (1) each lien on the home is released by the lienholder; or
- (2) each lienholder gives written consent, to be placed on file with the department.

(b) The department may issue a statement of ownership and location before the release of any liens or the consent of any lienholders as required by this section ~~only~~ if the department releases a certified copy of the statement to:

- (1) a licensed title insurance company that has issued a *commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed*; or
- (2) a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. (a) The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until the

department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor-collector of the conversion and:

- (1) each lien, including a tax lien, on the home is released by the lienholder; or
- (2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department.

(b) For the purposes of Subsection (a)(1), the department may rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) *Any licensee who sells, exchanges, or lease-purchases a new manufactured home to any consumer is responsible for the payment of all required sales and use tax on such home [The department may not issue a statement of ownership and location for a new manufactured home installed for occupancy in this state unless the state sales and use tax has been paid].*

(b) If it is determined that a new manufactured home was sold, exchanged, or lease-purchased without the required sales and use tax being paid, the payment shall be made from the fund, up to the available penal amount of the licensee's bond or the remaining balance of the security for the license, and a claim for reimbursement shall be filed with the licensee's surety or the amount deducted from the security for the license [Proof of payment may be shown in any manner prescribed by the department].

SECTION 28. Section 1201.210, Occupations Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) A notice of appeal and request for hearing must be filed with the director not later than the 30th day after the date of notice of the director's action. If appeal is not timely made, the revocation or suspension described in the notice of the director's action becomes final.

(d) Until a revocation or suspension has become final, the department shall place a hold on any activity relating to the statement of ownership and location other than the recordation of liens, including tax liens.

SECTION 29. Section 1201.214(b), Occupations Code, is amended to read as follows:

(b) An owner or lienholder may provide to the department a [the] document of title and any additional information required by the department and request that the department issue a statement of ownership and location to replace the document of title. The department shall mail to the owner or lienholder a [certified] copy of the statement of ownership and location issued under this subsection.

SECTION 30. Section 1201.216(a), Occupations Code, is amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the department shall indicate on the statement of ownership and location for the home that:

- (1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and*
- (2) except as provided by Section 1201.2055(h), the home is [department] no longer [considers the home to be] a manufactured home for purposes of regulation under this chapter or of recordation of liens, including tax liens.*

SECTION 31. Section 1201.217, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsection (f) to read as follows:

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the record owner of the home, [and] all lienholders at the addresses listed on the home's statement of ownership and location on file with the department, and the tax collector for each taxing unit that imposes ad valorem taxes on the real property where the home is located. The notice must include the address where the home is currently located. If the person giving such notice knows that the person to whom the notice is being given no longer resides and is no longer receiving mail at such address, a reasonable effort shall be made to locate the person and give the person notice at an address where the person is receiving mail. Mailing of the

notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the record owner of the home, ~~or~~ a lienholder, or a tax assessor-collector for a taxing unit that imposes ad valorem taxes on the real property on which the home is located may enter the real property on which the home is located to remove the home. The real property owner must disclose to the record owner, lienholder, or tax assessor-collector seeking to remove the home the location of the home and grant the person reasonable access to the home. A person removing a home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

(f) This section does not apply if the person who owns the real property on which the manufactured home is located and who is declaring that the home is abandoned, or any person who is related to or affiliated with that person, has now, or has ever owned, an interest in the manufactured home.

SECTION 32. Sections 1201.219 and 1201.220, Occupations Code, are amended to read as follows:

Sec. 1201.219. PERFECTION AND EFFECT OF LIENS. (a) A lien on manufactured homes in inventory is perfected *only* by filing the lien ~~[a security agreement]~~ with the department *on the required form* ~~[in a form that contains the information the director requires]~~. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds from the sale of those homes. The department may suspend or revoke the license of a retailer who fails to satisfy a perfected inventory lien ~~[under the terms of the security agreement]~~.

(b) Except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department. *The form shall require the disclosure of the original dollar amount of the lien and, if a tax lien, the name and address of the person in whose name the manufactured home is listed on the tax roll. The department shall disclose on its website the date of each lien filing, the original amount of the lien claimed by each filing, and the fact that the amount shown does not include additional sums including interest, penalties, and attorney's fees. The statement required by Section 1201.205(7) [recording of a lien with the department] is notice to all persons that the tax lien exists. Except as expressly provided by Chapter 32, Tax Code, a lien recorded with the department has priority, according to the chronological order of recording, over another lien or claim against the manufactured home. Tax liens shall be filed by the tax collector for any taxing unit having the power to tax the manufactured home. A single filing by a tax collector is a filing for all the taxing units for which the tax collector is empowered to collect.*

(c) Notwithstanding any other provision of this *or any other law* ~~[subchapter]~~, the filing of a lien security agreement ~~[by a secured party perfecting a lien]~~ on the inventory of a retailer does not prevent a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code, from acquiring good and marketable title free of that lien ~~[interest]~~, and the department may not consider that ~~[security interest as a]~~ lien for the purpose of title issuance.

Sec. 1201.220. REPORT TO COUNTY TAX ASSESSOR-COLLECTOR. (a) The department shall provide to each county tax assessor-collector in this state a monthly report that, for each manufactured home *reported as having been* installed in the county during the preceding month and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership and location during the preceding month, lists:

- (1) the name of the owner of the home;
- (2) the name of the manufacturer of the home, *if available*;
- (3) the model designation of the home, *if available*;
- (4) the identification number of each section or module of the home;
- (5) the address or location where the home *was reported as* ~~[is]~~ installed; and
- (6) the *reported* date of the installation of the home.

(b) The director shall provide a copy of the report to the chief appraiser of the appraisal district established for the county in which the home is *reported as* installed.

SECTION 33. The heading to Section 1201.251, Occupations Code, is amended to read as follows:

Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY *BOARD* ~~[DIRECTOR]~~.

SECTION 34. Section 1201.251, Occupations Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) The *board* ~~[director]~~ shall adopt standards and requirements for:

(1) the installation and construction of manufactured housing that are reasonably necessary to protect the health, safety, and welfare of the occupants and the public; and

(2) the construction of HUD-code manufactured homes in compliance with the federal standards and requirements established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).

(d) *In order to ensure that the determinations required by this section are properly made by qualified persons:*

(1) *the board's rules may provide for the approval of foundation systems and devices that have been approved by licensed engineers; and*

(2) *any generic installation standards promulgated by rule shall first be reviewed by an advisory committee established by the board comprised of representatives of manufacturers, installers, and manufacturers of stabilization systems or devices, including one or more licensed engineers.*

(e) *The advisory committee established by Subsection (d) shall make a report to the board setting forth each comment and concern over any proposed rules. The members of the committee shall have no personal liability for providing this advice.*

SECTION 35. Section 1201.252(a), Occupations Code, is amended to read as follows:

(a) A local governmental unit of this state may not adopt a standard for the construction or installation of manufactured housing in the local governmental unit that is different from a standard adopted by the *board* ~~[director]~~ unless, after a hearing, the board expressly approves the proposed standard.

SECTION 36. Sections 1201.253, 1201.254, and 1201.255, Occupations Code, are amended to read as follows:

Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. The director shall publish notice and conduct a public hearing ~~[in accordance with Sections 1201.054 and 1201.060]~~ before:

(1) adopting a standard or requirement authorized by this subchapter;

(2) amending a standard authorized by this subchapter; or

(3) approving a standard proposed by a local governmental unit under Section 1201.252.

Sec. 1201.254. EFFECTIVE DATE OF REQUIREMENT OR STANDARD. Each requirement or standard that is adopted, modified, amended, or repealed by the *board* ~~[director]~~ must state its effective date ~~[as provided by Section 1201.054]~~.

Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a) Except as authorized under Section 1201.252, manufactured housing *that is installed* must be installed in compliance with the standards and rules adopted and orders issued by the *department*. *An uninstalled manufactured home may not be occupied for any purpose.*

(b) *An installer may not install a manufactured home at a location on a site that has evidence of ponding, runoff under heavy rains, or bare uncompacted soil unless the installer first obtains the owner's signature on a form promulgated by the board disclosing that such conditions may contribute to problems with the stabilization system for that manufactured home, including possible damage to that home, and the owner accepts that risk* ~~[director]~~.

SECTION 37. Section 1201.301(b), Occupations Code, is amended to read as follows:

(b) In enforcing this chapter, the director may authorize a state inspector to travel inside or outside of the state to inspect a licensee ~~[manufacturing facility]~~.

SECTION 38. The heading to Section 1201.302, Occupations Code, is amended to read as follows:

Sec. 1201.302. INSPECTION BY *LOCAL GOVERNMENTAL UNITS* ~~[ENTITIES OTHER THAN DEPARTMENT]~~.

SECTION 39. Sections 1201.302(a) and (b), Occupations Code, are amended to read as follows:

(a) To ensure that a manufactured home sold or installed in this state complies with the standards code, the director may by contract provide for a federal agency or an agency or political subdivision of this state or another state to perform an inspection or inspection program under this chapter or under rules adopted by the *board* ~~[director]~~.

(b) On request, the department shall authorize a local governmental unit in this state to perform an inspection or enforcement activity related to the construction of a foundation system or the erection or installation of manufactured housing at a homesite under a contract or other official designation and rules adopted by the *board* ~~[director]~~. The department may withdraw the authorization if the local governmental unit fails to follow the rules, interpretations, and written instructions of the department.

SECTION 40. Sections 1201.351(a) and (b), Occupations Code, are amended to read as follows:

(a) The manufacturer of a new HUD-code manufactured home shall warrant, in a separate written document, that:

(1) the home is constructed or assembled in accordance with all building codes, standards, requirements, and regulations prescribed by the United States Department of Housing and Urban Development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.); and

(2) the home and all appliances and equipment included in the home are free from defects in materials or workmanship *except for cosmetic defects*.

(b) The manufacturer's warranty is in effect until at least the first anniversary of the date of initial installation of the home at the consumer's homesite *or the closing of the consumer's purchase or acquisition of an already installed new home, whichever is later*.

SECTION 41. Sections 1201.352 through 1201.355, Occupations Code, are amended to read as follows:

Sec. 1201.352. RETAILER'S WARRANTY ON A NEW HUD-CODE MANUFACTURED HOME. (a) The retailer of a new HUD-code manufactured home shall warrant to the consumer in writing that:

(1) installation of the home at the initial homesite *was or will be, as applicable*, completed in accordance with all department standards, rules, orders, and requirements; and

(2) appliances and equipment included with the sale of the home and installed by the retailer are or will be:

(A) installed in accordance with the instructions or specifications of the manufacturers of the appliances or equipment; and

(B) free from defects in materials or workmanship.

The warranty may expressly disclaim or limit any warranty regarding cosmetic defects.

(b) The retailer's warranty *on a new HUD-code manufactured home* is in effect until the first anniversary of the *later of the* date of initial installation of the home at the consumer's homesite *or the closing of the consumer's purchase or acquisition of the home*.

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement *on a new HUD-code manufactured home*, the retailer must give the consumer a copy of:

(1) the manufacturer's warranty;

(2) the retailer's warranty;

(3) the warranties given by the manufacturers of appliances or equipment included with the home; and

(4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

(d) Not later than the 30th day after the installation of a new HUD-code manufactured home, the retailer shall deliver to the consumer a copy of the warranty given by the licensed installer.

Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE. (a) The consumer shall give written notice to the manufacturer, ~~or~~ retailer, *or installer*, as applicable, of a need for warranty service or repairs.

(b) Written notice to the department is *deemed to be* notice to the manufacturer, ~~or~~ retailer, *or installer commencing three business days after receipt and forwarding of the notice by the department to the licensee by regular mail or electronic mail of a scanned copy of the notice.*

Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The manufacturer, ~~or~~ retailer, *or installer*, as applicable, shall take appropriate corrective action within a reasonable period as required by department rules to fulfill the written warranty obligation.

Sec. 1201.355. CONSUMER COMPLAINT HOME INSPECTION. (a) If the manufacturer, ~~or~~ retailer, *or installer* does not provide the consumer with proper warranty service, the consumer may, at any time, request the department to perform a consumer complaint home inspection. The department may not charge a fee for the inspection.

(b) On payment of the required inspection fee, the manufacturer, ~~or~~ retailer, *or installer* may request the department to perform a consumer complaint home inspection if the manufacturer, ~~or~~ retailer, *or installer*:

(1) believes the consumer's complaints are not covered by the warranty of the manufacturer, ~~or~~ retailer, *or installer*, as applicable;

(2) believes that the warranty service was properly provided; or

(3) disputes responsibility concerning the warranty obligation.

(c) The department shall perform a consumer complaint home inspection not later than the 30th day after the date of receipt of a request for the inspection.

(d) Notwithstanding any other provision of this section, the department may make an inspection at any time if it believes that there is a reasonable possibility that a condition exists that would present an imminent threat to health or safety.

SECTION 42. Sections 1201.356(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Not later than the 10th day after the date of a consumer complaint home inspection, the department shall send a written report and any order to the consumer, manufacturer, ~~and~~ retailer, *and installer* by certified mail, return receipt requested.

(b) The report shall specify:

(1) each of the consumer's complaints; and

(2) whether the complaint is covered by ~~either~~ the manufacturer's, ~~or~~ retailer's, *or installer's* warranty and, if so, which of those warranties.

(c) The director shall issue to the manufacturer, ~~or~~ retailer, *or installer* an appropriate order for corrective action by the manufacturer, ~~or~~ retailer, *or installer* specifying a reasonable period for completion of the corrective action. *With regard to new manufactured homes, both the installer and the retailer are responsible for the warranty of installation. If the department determines that a complaint is covered by the installation warranty, the director shall issue the order to the installer for the corrective action. If the installer fails to perform the corrective action, the installer shall be subject to the provisions of Section 1201.357. In that instance, the director shall issue the same order for corrective action to the retailer with a new time frame not to exceed 10 days unless additional time is needed for compliance upon a showing of good cause. If the retailer is compelled to perform corrective action because of the failure of the installer to comply with the director's order, the retailer may seek reimbursement from the installer. The period for the performance of any required*

warranty work may be shortened by the director as much as is feasible if the warranty work is believed necessary to address a possible imminent threat to health or safety.

SECTION 43. Sections 1201.357 and 1201.358, Occupations Code, are amended to read as follows:

Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE. (a) If the manufacturer, [or] retailer, or installer, as applicable, fails to provide warranty service within a [the] period specified by the director [under Section 1201.356], the manufacturer, [or] retailer, or installer must show good cause in writing as to why the manufacturer, [or] retailer, or installer failed to provide the service.

(b) If the manufacturer, [or] retailer, or installer, as applicable, fails or refuses to provide warranty service in accordance with the department order under Section 1201.356, the director shall hold an informal meeting [a hearing] at which the manufacturer, [or] retailer, or installer must show cause as to why the manufacturer's, [or] retailer's, or installer's license should not be suspended or revoked and at which the consumer may express the person's views. Following the meeting, the director shall either resolve the matter by agreed order, dismiss the matter if no violation is found to have occurred, or institute an administrative action, which may include license suspension or revocation, the assessment of administrative penalties, or a combination of such actions.

(c) If the manufacturer, [or] retailer, or installer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer, [or] retailer, or installer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer, [or] retailer, or installer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer, [or] retailer, or installer, as applicable:

- (1) is discharged from the obligations imposed by the relevant department orders;
- (2) has no liability to the consumer with regard to that warranty; and
- (3) is not subject to an action by the department for failure to provide warranty service.

Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; HEARING RESULTS. (a) Failure by the manufacturer, [or] retailer, or installer to show good cause under Section 1201.357(a) is a sufficient basis for suspension or revocation of the manufacturer's, [or] retailer's, or installer's license.

(b) If the director determines that an order was incorrect regarding a warranty obligation, the director shall issue a final order stating the correct warranty obligation and the right of the manufacturer, retailer, or installer to indemnification from one of the other parties [after the hearing under Section 1201.357(b), the director determines that the order under Section 1201.356 was correct in the determination of the warranty obligation of the manufacturer or retailer, failure or refusal by the manufacturer or retailer to comply with the order is a sufficient cause for suspension or revocation of the manufacturer's or retailer's license. If the director determines that the order was incorrect regarding that obligation, the director shall issue a final order stating the correct obligation and the right of the manufacturer or retailer to indemnification from the other].

(c) The director may issue an order:

(1) directing a manufacturer, [or] retailer, or installer whose license is not revoked and who is not out of business to perform the warranty obligation of a manufacturer, [or] retailer, or installer whose license is revoked or who is out of business; and

(2) giving the manufacturer, [or] retailer, or installer performing the obligation the right of indemnification against another party [the other].

(d) A manufacturer, [or] retailer, or installer entitled to indemnification under this section is a consumer for purposes of Subchapter I and may recover actual damages [and attorney's fees] from the trust fund.

SECTION 44. Section 1201.361, Occupations Code, is amended to read as follows:

Sec. 1201.361. **INSTALLER'S WARRANTY.** (a) For all ~~[secondary]~~ installations ~~[not covered by the retailer's warranty described by Section 1201.352 and for the installation of all used manufactured homes]~~, the installer shall give the manufactured home owner a written warranty that the installation of the home was performed in accordance with all department standards, rules, orders, and requirements. *The warranty for the installation of a new HUD-code manufactured home is to be given by the retailer, who is responsible for installation. If the retailer subcontracts this function to a licensed installer, the retailer and installer are jointly and severally responsible for performance of the warranty.*

(b) The warranty must conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Unless the warranty provides for a longer period, the installer *or retailer* has no obligation or liability *under the person's warranty* for any defect described in a written notice received from the consumer more than two years after the *later of the date of purchase or the date of [the]* installation.

SECTION 45. Subchapter H, Chapter 1201, Occupations Code, is amended by adding Section 1201.362 to read as follows:

Sec. 1201.362. INSPECTIONS NOT LIMITED; CORRECTIONS. (a) Nothing in this chapter shall limit the ability of the department to inspect a manufactured home at any time.

(b) Notwithstanding the limitations and terms of any warranty, the director may, whenever the department identifies any aspect of an installation that does not conform to applicable requirements, order the licensee who performed the installation to correct it, or, if that licensee is no longer licensed, reassign correction to a licensed installer and reimburse the person from the fund for the costs of correction.

SECTION 46. Section 1201.402(a), Occupations Code, is amended to read as follows:

(a) The director shall administer the trust fund ~~[as trustee of that fund]~~.

SECTION 47. Section 1201.404(b), Occupations Code, is amended to read as follows:

(b) The trust fund and the director are not liable to the consumer if the trust fund does not have the money necessary to pay the actual damages ~~[and attorney's fees]~~ determined to be payable. The director shall record the date and time of receipt of each verified complaint and, as money becomes available, pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

SECTION 48. Section 1201.405, Occupations Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The trust fund is not liable for and the director may not pay:

(1) actual damages to reimburse an affiliate or related person of a licensee, except when the director issues an order under Sections 1201.358(b) and (c);

(2) actual damages to correct matters that are solely cosmetic in nature;

(3) for attorney's fees; or

(4) actual damages to address other matters, unless the matters involve:

(A) a breach of warranty;

(B) a failure to return or apply as agreed money received from a consumer or money for which the consumer was obligated; or

(C) the breach of an agreement to provide goods or services necessary to the safe and habitable use of a manufactured home such as steps, air conditioning, access to utilities, or access to sewage and wastewater treatment.

(g) The board by rule may place reasonable limits on the costs that may be approved for payment from the trust fund, including the costs of reassigned warranty work, and require consumers making claims that may be subject to reimbursement from the trust fund to provide estimates establishing that the cost will be reasonable. Such rules may also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the trust fund.

SECTION 49. Sections 1201.406 and 1201.407, Occupations Code, are amended to read as follows:

Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND. (a) To recover from the trust fund, a consumer must file a written, *sworn* complaint in the form required by the director not later than the second anniversary of:

- (1) the date of the alleged act or omission causing the actual damages; or
- (2) the date the act or omission is discovered or should reasonably have been discovered.

(b) On receipt of a verified complaint, the department shall:

(1) notify each appropriate license holder *and the issuer of any surety bond issued in connection with their licenses*; and

(2) investigate the claim *and issue a preliminary determination, giving the consumer, the licensee, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.*

(c) *If the matter being investigated is not resolved by agreement or is disputed by written notice to the director before the 31st day after the date of the preliminary determination, the preliminary determination shall automatically become final and the director shall make demand on the surety or deduct any payable amount of the claim from the licensee's security [to determine:*

~~[(A) the validity of the claim; and~~

~~[(B) whether the complaint can be resolved by remedial action of the license holder].~~

Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE RESOLUTION PROCESS. (a) *If a preliminary determination is disputed, the [license holders or a license holder and a consumer disagree as to responsibility for a complaint, the] department shall conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute.*

(b) *For a preliminary determination that has been disputed [claim determined] to become final and [be] valid, the department shall make any changes the director determines to be appropriate and issue another written [a] preliminary determination [during the informal dispute resolution process] as to the responsibility and liability of the manufacturer, retailer, broker, and installer.*

(c) Before making a final determination, the department shall *allow [provide] a license holder 10 days [an opportunity] to comment on this [the] preliminary determination.*

(d) *After consideration of the comments, if any, the director shall issue a final determination.*

(e) *The final determination may be appealed to the board on or before the 10th day after the date of its issuance by giving written notice to the director, who shall place the matter before the board at the next meeting held on a date for which the matter could be publicly posted as required by Chapter 551, Government Code.*

(f) *Any [The department shall notify a license holder's surety and give the surety an opportunity to participate in the informal dispute resolution process if the license holder:*

~~[(1) is out of business;~~

~~[(2) is no longer licensed; or~~

~~[(3) has filed for liquidation or reorganization in bankruptcy.~~

~~[(e) If, after receiving notice of the claim, a license holder or the license holder's surety fails or refuses to participate in the informal dispute resolution process, the] license holder or surety, as applicable, is bound by the department's final determination of responsibility and liability.~~

SECTION 50. Sections 1201.409(a) and (b), Occupations Code, are amended to read as follows:

(a) Except as otherwise provided by Subchapter C, the trust fund shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that[:

~~[(1)] is paid out of the trust fund by the director to a consumer in accordance with this subchapter;~~ and

~~[(2) resulted from an act or omission of the license holder who filed the bond or other security].~~

(b) Payment by the surety or from the other security must be made not later than the 30th day after the date of ~~[receipt of]~~ notice from the director that a consumer claim has been paid.

SECTION 51. Section 1201.410, Occupations Code, is amended to read as follows:

Sec. 1201.410. *INFORMATION ON RECOVERY FROM TRUST FUND* ~~[INFORMATIONAL PAMPHLET]~~. ~~[(a)]~~ The director shall prepare *information for notifying* ~~[a pamphlet informing]~~ consumers of their rights to recover from the trust fund, *shall post the information on the department's website, and shall make printed copies available on request.*

~~[(b) The director may contract with a private party for the printing and distribution of the pamphlet.]~~

SECTION 52. Section 1201.451(b), Occupations Code, is amended to read as follows:

(b) Not later than the ~~60th~~ ~~[30th]~~ day after the effective date of the transfer of ownership or the date the seller or transferor obtains possession of the necessary and properly executed documents, the seller or transferor shall forward to the purchaser or transferee the necessary, executed documents. *If the seller or transferor fails to forward the documents on a timely basis, the purchaser or transferee may apply directly for the documents.* On receipt of the documents, the purchaser or transferee shall apply for the issuance of a statement of ownership and location.

SECTION 53. Section 1201.453, Occupations Code, is amended to read as follows:

Sec. 1201.453. *HABITABILITY*. Manufactured housing is habitable only if:

(1) there is no defect or deterioration in or damage to the home that creates a dangerous situation;

(2) the plumbing, heating, and electrical systems are in safe working order;

(3) the walls, floor, and roof are:

(A) free from a substantial opening that was not designed; and

(B) structurally sound; and

(4) all exterior doors and windows are in place *and operate properly*.

SECTION 54. Section 1201.457(b), Occupations Code, is amended to read as follows:

~~(b) If a used manufactured home is reserved for business use or salvaged, a person may not [The purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home may not sell, exchange, or lease purchase the home for use as a dwelling or]~~ knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage. On the purchaser's application to the department for issuance of a new statement of ownership and location, the department shall inspect the home and, if the department determines that the home is habitable, issue a new ~~[the]~~ statement of ownership and location.

SECTION 55. Section 1201.459, Occupations Code, is amended to read as follows:

Sec. 1201.459. *COMPLIANCE NOT REQUIRED FOR SALE FOR COLLECTION OF DELINQUENT TAXES*. (a) In selling a manufactured home to collect delinquent taxes, a tax assessor-collector ~~[collector]~~ is not required to comply with this subchapter or another provision of this chapter relating to the sale of a used manufactured home.

(b) If a ~~[the]~~ home does not have a serial number, seal, or label, the *tax appraiser or tax assessor-collector* ~~[collector]~~ may:

~~[(1)]~~ apply to the department for a seal *if the tax appraiser or assessor-collector assumes full responsibility for the affixation of a seal to the home and the seal is actually affixed on the home*;

~~[(2) pay the applicable fee; and~~

~~[(3) recover that fee as part of the cost of the sale of the home].~~

(c) A ~~[The]~~ seal issued to a tax appraiser or ~~[the]~~ tax assessor-collector ~~[collector]~~ is for identification purposes only and does not imply that:

(1) the home is habitable; or

(2) a purchaser of the home at a tax sale may obtain a new statement of ownership and location from the department without an inspection for habitability.

SECTION 56. The heading to Section 1201.461, Occupations Code, is amended to read as follows:

Sec. 1201.461. SALVAGED MANUFACTURED HOME; *CRIMINAL PENALTY*.

SECTION 57. Section 1201.461, Occupations Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) *A county or other unit of local government that identifies a manufactured home within its jurisdiction that has been declared salvage may impose on that home such inspection, correction, and other requirements as it could apply if the home were not a manufactured home.*

(h) *A licensee may not participate in the sale, exchange, lease-purchase, or installation for use as a dwelling of a manufactured home that is salvage and that has not been repaired in accordance with this chapter and the department's rules. An act that is prohibited by this subsection is deemed to be a practice that constitutes an imminent threat to health or safety and is subject to the imposition of penalties and other sanctions provided for by this chapter. A violation of this subsection is a Class B misdemeanor.*

SECTION 58. Section 1201.503, Occupations Code, is amended to read as follows:

Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a consumer of a new manufactured home to which a label has been attached and before installation of the home, a manufacturer, retailer, broker, or installer may not alter the home or cause the home to be altered without obtaining prior written approval from a licensed engineer and providing evidence of such approval to the department.

SECTION 59. Section 1201.506(a), Occupations Code, is amended to read as follows:

(a) A retailer or broker:

(1) shall comply with Subtitles A and B, Title 4, Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.); ~~and~~

(2) may not advertise an interest rate or finance charge that is not expressed as an annual percentage rate; *and*

(3) *shall comply with all applicable provisions of the Finance Code.*

SECTION 60. Subchapter K, Chapter 1201, Occupations Code, is amended by adding Section 1201.513 to read as follows:

Sec. 1201.513. *DISPOSITION OF TRADE-INS AND OCCUPANCY OF HOMES BEFORE CLOSING.* (a) *A retailer may not sell a trade-in manufactured home before the closing of the sale in connection with which the retailer receives the trade-in.*

(b) *A retailer may not knowingly permit a consumer to occupy a manufactured home that is the subject of a sale, exchange, or lease-purchase to that consumer before the closing of any required financing unless the consumer is first given a form adopted by the board disclosing that if for any reason the financing does not close, the consumer may be required to vacate the home.*

SECTION 61. Sections 1201.551, 1201.552, and 1201.553, Occupations Code, are amended to read as follows:

Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION. (a) ~~The director, after notice as provided for under Section 1201.054 and a hearing as provided by Sections 1201.054 and 1201.060,~~ may deny, permanently revoke, or suspend for a definite period and specified sales location or geographic area a license if the director determines that the applicant or license holder:

(1) knowingly and wilfully violated this chapter or a rule adopted or order issued under this chapter;

(2) unlawfully retained or converted money, property, or any other thing of value from a consumer in the form of a down payment, sales or use tax, deposit, or insurance premium;

(3) failed *repeatedly* to file with the department a completed ~~[timely provide to a consumer an]~~ application for a statement of ownership and location *before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later* ~~[and any information necessary to complete the application];~~

(4) failed to give or breached a manufactured home warranty required by this chapter or by the Federal Trade Commission;

(5) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code;

(6) failed to provide or file a report required by the department for the administration or enforcement of this chapter;

(7) provided false information on an application, report, or other document filed with the department;

(8) acquired a criminal record during the five-year period preceding the application date that, in the opinion of the director, makes the applicant unfit for licensing; ~~[or]~~

(9) failed to file a bond or other security for each location as required by Subchapter C; *or*

(10) *has had another license issued by this state revoked or suspended.*

(b) The director ~~[department]~~ may suspend or revoke a license if, after receiving notice of a claim, the license holder or the license holder's surety fails or refuses to *pay a final claim paid from the trust fund for which demand for reimbursement was made* ~~[participate in the informal dispute resolution process described by Section 1201.407].~~

Sec. 1201.552. ~~[HEARING CONCERNING]~~ LICENSE REVOCATION, SUSPENSION, OR DENIAL; HEARING. The director *may issue an order to revoke, suspend, or deny a new or renewal license. If, before the 31st day after an order revoking, suspending, or denying a license is issued, the person against whom the order is issued requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the order is issued, the order becomes final. Any administrative proceedings relating to the revocation, suspension, or denial of a license under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision* ~~[shall conduct a hearing involving the denial, renewal, revocation, or suspension of a license in accordance with Chapter 2001, Government Code].~~

Sec. 1201.553. JUDICIAL REVIEW. Judicial review of *any* ~~[an]~~ order, decision, or determination of the board ~~[director]~~ is instituted by filing a petition with a district court in Travis County as provided by Chapter 2001, Government Code.

SECTION 62. Section 1201.605, Occupations Code, is amended to read as follows:

Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director may assess against a person who fails to *comply with* ~~[obtain or maintain a license as required by]~~ this chapter, *the rules adopted under this chapter, or any final order of the department* an administrative penalty in an amount not to exceed \$10,000 for each violation of this chapter and:

- (1) reasonable attorney's fees;
- (2) administrative costs;
- (3) witness fees;
- (4) investigative costs; and
- (5) deposition expenses.

(b) The director may assess against a licensee ~~[retailer]~~ who fails to provide information to a consumer as required by this chapter an administrative penalty in an amount not to exceed:

- (1) \$1,000 for the first violation;
- (2) \$2,000 for the second violation; and

(3) \$4,000 for each subsequent violation.

(c) *In determining the amount of an administrative penalty assessed under this section, the director shall consider:*

- (1) *the seriousness of the violation;*
- (2) *the history of previous violations;*
- (3) *the amount necessary to deter future violations;*
- (4) *efforts made to correct the violation; and*
- (5) *any other matters that justice may require.*

(d) *The director may impose an administrative penalty in accordance with this section. If, before the 31st day after the date a person receives notice of the imposition of an administrative penalty, the person requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the person receives notice of the imposition of the administrative penalty, the penalty becomes final. Any administrative proceedings relating to the imposition of an administrative penalty under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.*

SECTION 63. Subchapter M, Chapter 1201, Occupations Code, is amended by adding Sections 1201.607 through 1201.611 to read as follows:

Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR HEARINGS. Any order issued by the director under this chapter, if not appealed before the 31st day after the date the order was issued, shall automatically become a final order. If the person made the subject of the order files a written request for a hearing with the director, the order shall be deemed to have been appealed and shall be a contested case under Chapter 2001, Government Code. The director shall set any appealed order for a hearing before the State Office of Administrative Hearings, and the board shall issue a final order after receiving and reviewing the proposal for decision issued pursuant to such hearing.

Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) The department may inspect a licensee's records during normal business hours without advance notice if the director believes that such inspection is necessary to prevent a violation of this chapter, to protect a consumer or another licensee, or to assist another state or federal agency in an investigation.

(b) The director may request or issue subpoenas for a licensee's records.

(c) The department may carry out "sting" or undercover investigations in accordance with board-adopted rules if the director believes such action to be appropriate in order to detect and address suspected violations of this chapter.

(d) While an investigation is pending, information obtained by the department in connection with that investigation is confidential unless disclosure of the information is specifically permitted or required by other law.

Sec. 1201.609. ACTING WITHOUT LICENSE; CRIMINAL PENALTY. A person who is not exempt under this chapter and who, without first obtaining a license required under this chapter, performs an act that requires a license under this chapter commits an offense. An offense under this section is a Class B misdemeanor. A second or subsequent conviction for an offense under this section is a Class A misdemeanor.

Sec. 1201.610. CEASE AND DESIST. (a) If the director has reasonable cause to believe that a person licensed under this chapter has violated or is about to violate any provision of this chapter or rules adopted by the department under this chapter, the director may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter.

(b) The director may issue an order to any licensee to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to any such violations if the violations in any way are related to the sale, financing, or installation of a manufactured home or the providing of goods or services in connection with the sale, financing, or installation of a manufactured home unless the matter that is the basis of such

violation is expressly subject to inspection and regulation by another state agency; provided, however, that if any matter involves a law that is subject to any other administration or interpretation by another agency, the director shall consult with the person in charge of the day-to-day administration of that agency before issuing an order.

(c) An order issued under Subsection (a) or (b) must contain a reasonably detailed statement of the facts on which the order is based. If a person against whom the order is issued requests a hearing before the 31st day after the date the order is issued, the director shall set and give notice of a hearing. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the board by order may find that a violation has occurred or has not occurred.

(d) If a hearing is not requested under Subsection (c) before the 31st day after the date an order is issued, the order is considered final and not appealable.

(e) The director, after giving notice, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. In addition to any other remedy provided by law, the director may institute in district court a suit for injunctive relief and for the collection of the administrative penalty. A bond is not required of the director with respect to injunctive relief granted under this subsection.

(f) If a person fails to pay an administrative penalty that has become final or fails to comply with an order of the director that has become final, in addition to any other remedy provided by law, the director, after not less than 10 days' notice to the person, may without a prior hearing suspend the person's license. The suspension shall continue until the person has complied with the cease and desist order or paid the administrative penalty. During the period of suspension, the person may not perform any act requiring a license under this chapter, and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received.

(g) An order of suspension under Subsection (f) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (f) shall be held not later than the 15th day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

(h) An order revoking the license of a retailer, broker, installer, or salesperson may provide that the person is prohibited, without obtaining prior written consent of the director, from being a related person of a licensee.

Sec. 1201.611. **SANCTIONS AND PENALTIES.** (a) The board shall adopt rules relating to the administrative sanctions that may be enforced against a person regulated by the department.

(b) If a person charged with the violation accepts the determination of the director, the director shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(c) Not later than the 30th day after the date on which the decision is final, the person charged shall:

- (1) pay the penalty in full; or
- (2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:
 - (A) forward the amount assessed to the department for deposit in an escrow account;
 - (B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the director and effective until judicial review of the decision is final; or
 - (C) without paying the amount of the penalty or posting the supersedeas bond, pursue judicial review.

(d) A person charged with a penalty who is financially unable to comply with Subsection (c)(2) is entitled to judicial review if the person files with the court, as part of the person's

petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(e) If the person charged does not pay the penalty and does not pursue judicial review, the department or the attorney general may bring an action for the collection of the penalty.

(f) Judicial review of the order of the director assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County.

(g) If, after judicial review, the penalty is reduced or not assessed, the director shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the director under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank and shall be paid for the period beginning on the date the assessed penalty is paid to the director and ending on the date the penalty is remitted.

(h) A penalty collected under this section shall be deposited in the trust fund.

(i) All proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001, Government Code.

(j) If it appears that a person is in violation of, or is threatening to violate, any provision of this chapter or a rule or order related to the administration and enforcement of the manufactured housing program, the attorney general, on behalf of the director, may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not to exceed \$1,000 for each violation and not exceeding \$250,000 in the aggregate. A civil action filed under this subsection shall be filed in district court in Travis County. The attorney general and the director may recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 64. Section 2306.6022(b), Government Code, is amended to read as follows:

(b) The division shall make available on its website ~~[provide to the person filing the complaint and to each person who is a subject of the complaint a copy of]~~ the division's policies and procedures relating to complaint investigation and resolution and shall provide copies of such information on request.

SECTION 65. Section 94.051, Property Code, is amended to read as follows:

Sec. 94.051. INFORMATION TO BE PROVIDED TO PROSPECTIVE TENANT. At the time the landlord receives an application from a prospective tenant, the landlord shall give the tenant a copy of:

- (1) the proposed lease agreement for the manufactured home community;
- (2) any manufactured home community rules; and
- (3) a separate disclosure statement with the following prominently printed in at least 10-point type:

"You have the legal right to an initial lease term of six months. If you prefer a different lease period, you and your landlord may negotiate a shorter or longer lease period. After the initial lease period expires, you and your landlord may negotiate a new lease term by mutual agreement. Regardless of the term of the lease, ~~[if the recreational vehicle is tied to, affixed, or otherwise a permanent part of the premises,]~~ the landlord must give you at least 60 days' notice of a nonrenewal of the lease, except that if the manufactured home community's land use will change, the landlord must give you at least 180 days' notice ~~[if the landlord will not renew your lease and will require that you relocate your manufactured home or recreational vehicle].~~ During the applicable ~~[60-day]~~ period, you must continue to pay all rent and other amounts due under the lease agreement, including late charges, if any, after receiving notice of the nonrenewal."

SECTION 66. Section 94.052(b), Property Code, is amended to read as follows:

(b) Except as provided by Section 94.204, regardless ~~[Regardless]~~ of the term of the lease, the landlord must provide notice to the tenant not later than the 60th day before the date of the expiration of the lease if the landlord chooses ~~[does]~~ not to renew the lease. During the

applicable [60-day] period, the tenant must pay all rent and other amounts due under the lease agreement, including late charges, if any, after receiving notice of the nonrenewal.

SECTION 67. Section 94.053(c), Property Code, is amended to read as follows:

(c) A lease agreement must contain the following information:

- (1) the address or number of the manufactured home lot and the number and location of any accompanying parking spaces;
- (2) the lease term;
- (3) the rental amount;
- (4) the interval at which rent must be paid and the date on which periodic rental payments are due;
- (5) any late charge or fee or charge for any service or facility;
- (6) the amount of any security deposit;
- (7) a description of the landlord's maintenance responsibilities;
- (8) the telephone number of the person who may be contacted for emergency maintenance;
- (9) the name and address of the person designated to accept official notices for the landlord;
- (10) the penalty the landlord may impose for the tenant's early termination as provided by Section 94.201;
- (11) the grounds for eviction as provided by Subchapter E;
- (12) a disclosure of the landlord's right to *choose not to renew* ~~terminate~~ the lease agreement if there is a change in the land use of the manufactured home community during the lease term as provided by Section 94.204;
- (13) a disclosure of any incorporation by reference of an addendum relating to submetering of utility services;
- (14) a prominent disclosure informing the tenant that Chapter 94, Property Code, governs certain rights granted to the tenant and obligations imposed on the landlord by law;
- (15) if there is a temporary zoning permit for the land use of the manufactured home community, the date the zoning permit expires; and
- (16) any other terms or conditions of occupancy not expressly included in the manufactured home community rules.

SECTION 68. The heading to Section 94.204, Property Code, is amended to read as follows:

Sec. 94.204. *NONRENEWAL OF LEASE* ~~[TERMINATION]~~ FOR CHANGE IN LAND USE.

SECTION 69. Section 94.204(a), Property Code, is amended to read as follows:

(a) A landlord may *choose not to renew* ~~terminate~~ a lease agreement to change the manufactured home community's land use only if *not later than the 180th day before the date the land use will change*:

- (1) ~~[not later than the 120th day before the date the land use changes,]~~ the landlord sends notice to the tenant, to the owner of the manufactured home if the owner is not the tenant, and to the holder of any lien on the manufactured home:
 - (A) specifying the date that the land use will change; and
 - (B) informing the tenant, owner, and lienholder, if any, that the owner must relocate the manufactured home; and
- (2) ~~[not later than the 120th day before the date the land use changes,]~~ the landlord posts in a conspicuous place in the manufactured home community a notice stating that the land use will change and specifying the date that the land use will change.

SECTION 70. Sections 11.432(a) and (b), Tax Code, are amended to read as follows:

(a) For a manufactured home to qualify for an exemption under Section 11.13 ~~[of this code]~~, the application for the exemption must be accompanied by a copy of the statement of ownership and location for the manufactured home issued by the manufactured housing division of the Texas Department of Housing and Community Affairs under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the manufactured home or be accompanied by a verified copy of the purchase contract showing that the applicant is the purchaser of the manufactured home, *unless a photostatic copy of the current title page for the home is displayed on the computer website of the Texas Department of Housing and Community Affairs. The appraisal district may rely upon the computer records of the Texas Department of Housing and Community Affairs to determine whether a manufactured home qualifies for an exemption.*

(b) The land on which a manufactured home is located qualifies for an exemption under Section 11.13 only if:

(1) the manufactured home qualifies for an exemption as provided by Subsection (a); and

(2) the manufactured home is listed together with the land on which it is located under Section 25.08. *The consumer is entitled to obtain the homestead exemptions provided by Section 11.13 regardless of whether the owner has elected to treat the home as real property or personal property and regardless of whether the home is listed on the tax rolls with the real property to which it is attached or separately.*

SECTION 71. Section 31.072, Tax Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (a), if the property owner requesting a collector to establish an escrow account under this section is the owner of a manufactured home and the escrow account is to be used solely to provide for the payment of property taxes collected by the collector on the property owner's manufactured home, the collector shall enter into a contract with the property owner under this section.

SECTION 72. Section 32.03, Tax Code, is amended to read as follows:

Sec. 32.03. RESTRICTIONS ON PERSONAL PROPERTY TAX LIEN. (a) Except as provided by Subsection (a-1), a tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien.

(a-1) *With regard to a manufactured home, a tax lien may be recorded at any time not later than six months after the end of the year for which the tax was owed. A tax lien on a manufactured home may be enforced if it has been recorded in accordance with the laws in effect at the time of the recordation of the lien. A properly recorded tax lien may not be enforced against a new manufactured home that is owned by a person who acquired the manufactured home from a retailer as a buyer in the ordinary course of business [A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code]*

~~[(1) before October 1, 2005; or~~

~~[(2) not later than six months after the end of the year for which the tax was owed].~~

(a-2) A person may not transfer ownership ~~[title]~~ of a manufactured home until all tax liens perfected on the home *that have been timely filed with the Texas Department of Housing and Community Affairs have been extinguished or satisfied and released and any personal property taxes on the manufactured home which accrued on each January 1 that falls within the 18 months preceding the date of the sale have been paid.* This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on a ~~[the]~~ manufactured home statement of ownership and location is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs. In this section, manufactured home has the meaning assigned by Section 32.015(b). *Unless a tax lien has been filed timely with the Texas Department of Housing and Community Affairs,*

no taxing unit, nor anyone acting on its behalf, may use a tax warrant or any other method to attempt to execute or foreclose on the manufactured home.

(c) A taxpayer may designate in writing which tax year will be credited with a particular payment. If a taxpayer pays all the amounts owing for a given year, the taxing unit shall issue a receipt for the payment of the taxes for the designated year.

(d) Notwithstanding any other provision of this section, if a manufactured home was omitted from the tax roll for either or both of the two preceding tax years, the taxing unit may file a tax lien within the 150-day period following the date on which the tax becomes delinquent.

(e) If personal property taxes on a manufactured home have not been levied by the taxing unit, the taxing unit shall provide, upon request, an estimated amount of taxes computed by multiplying the taxable value of the manufactured home, according to the most recent certified appraisal roll for the taxing unit, by the taxing unit's adopted tax rate for the preceding tax year. In order to enable the transfer of the manufactured home, the tax collector shall accept the payment of the estimated personal property taxes and issue a certification to the Texas Department of Housing and Community Affairs that the estimated taxes are being held in escrow until the taxes are levied. Once the taxes are levied, the tax collector shall apply the escrowed sums to the levied taxes. At the time the tax collector accepts the payment of the taxes, the tax collector shall provide notice that the payment of the estimated taxes is an estimate that may be raised once the appraisal rolls for the year are certified and that the new owner may be liable for the payment of any difference between the tax established by the certified appraisal roll and the estimate actually paid.

SECTION 73. (a) The following provisions of the Occupations Code are repealed:

- (1) Section 1201.059;
- (2) Section 1201.112;
- (3) Sections 1201.113(c), (d), (e), (f), and (g);
- (4) Section 1201.163;
- (5) Sections 1201.214(c) and (d); and
- (6) Section 1201.408.

(b) Section 2306.6023, Government Code, is repealed.

SECTION 74. The changes in law made by this Act to Sections 94.051, 94.052, 94.053, and 94.204, Property Code, apply only to a lease agreement or a renewal to a lease agreement entered into after the effective date of this Act. A lease agreement or a renewal to a lease agreement entered into on or before the effective date of this Act is covered by the law in effect at the time the lease agreement or the renewal to the lease agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 75. The change in law made by this Act applies only to the sale, exchange, or lease-purchase of a new or used manufactured home on or after the effective date of this Act. A sale, exchange, or lease-purchase of a new or used manufactured home before the effective date of this Act is governed by the law in effect on the date of the sale, exchange, or lease-purchase, and the former law is continued in effect for that purpose.

SECTION 76. Except as otherwise provided by this Act, the changes in law made by this Act apply only to a license issued or renewed by the Texas Department of Housing and Community Affairs on or after January 1, 2008. An issuance or renewal that occurs before January 1, 2008, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 77. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 78. The changes in law made by this Act to provisions of the Tax Code apply only to an ad valorem tax year that begins on or after January 1, 2008. The changes in law

made to those provisions do not affect a tax lien that attached to property for a tax year that began before January 1, 2008, and the law in effect immediately before January 1, 2008, is continued in effect for purposes of the tax lien.

SECTION 79. This Act takes effect January 1, 2008.

Passed by the House on April 26, 2007: Yeas 144, Nays 0, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 1460 on May 24, 2007: Yeas 142, Nays 4, 1 present, not voting; passed by the Senate, with amendments, on May 22, 2007: Yeas 31, Nays 0.

Approved June 15, 2007.

Effective January 1, 2008.

CHAPTER 864

H.B. No. 1470

AN ACT

relating to the Texas Economic Development Act, including the continuation of that Act and tax credits claimed under that Act, and to the duties of the comptroller of public accounts and the Texas Education Agency under that Act.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2011 [2007].

SECTION 2. Section 313.025, Tax Code, is amended by amending Subsections (b) and (d) and adding Subsection (b-1) to read as follows:

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall ~~deliver three copies of the application to the comptroller and request that the comptroller provide [engage a third person to conduct]~~ an economic impact evaluation of the application to ~~[on behalf of]~~ the school district. *Except as provided by Subsection (b-1), the comptroller shall conduct or contract with a third person to conduct the evaluation, which shall be completed and provided to the governing body of the school district as soon as practicable. The governing body shall provide to the comptroller or third person any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the evaluation to the applicant on request. The comptroller may charge and collect a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall [and] approve or disapprove an application before the 121st day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.*

(b-1) The comptroller shall indicate on one copy of the application the date the comptroller received the application and deliver that copy to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities, as required to be included in the economic impact evaluation by Section 313.026(a)(9), and submit a written report containing the agency's determination to the comptroller. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the application indicates that the comptroller received the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the comptroller. A third person contracted by the comptroller to conduct an economic impact evaluation of an application is not required to make a determination that the Texas Education Agency is required to make and report to the comptroller under this subsection.